

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:)	Chapter 11
)	Case No. 08-35653-KRH
CIRCUIT CITY STORES, INC.,)	Jointly Administered
<u>et al.</u> ,)	
)	
Debtors.)	
)	

RESPONSE TO FIRST AND FIFTEENTH OMNIBUS OBJECTIONS TO CLAIMS RE:
CLAIM NO. 14418

GEPMC 2005-C2 CC PARENT, LLC ("GEPMC"), files this Response (the "Response") to the First and Fifteenth Omnibus Objection to Claims [ECF Nos. 10024 and 10053] (the "Objections") and, in support of the Response respectfully represents as follows:

OLP CCFURGUSON LLC (the "Landlord") filed claim no. 14418 (the "Claim"), which claim was subsequently assigned to GEPMC [ECF No. 5445]. The Objections seek to disallow and expunge the Claim as untimely.

GEPMC contends that the Claim was timely and, in the alternative, if such claim was untimely, it was due to FedEx's "airplane problems" and was not prejudicial to the Debtors. Accordingly, justice requires that the Objection be overruled and the Claim allowed as timely.

As set forth in the Objections, the Administrative Expense Bar Date applicable to the Claim is June 30, 2009 (the "Bar Date"). As indicated by the attached transmittal letter from counsel to the Landlord and FedEx tracking information, the Claim was sent to the claims agent in these cases on June 29, 2009 via FedEx Priority delivery, which ordinary would have resulted in the Claim being delivered to the claims agent in the morning on June 30, 2009.

FedEx, however, apparently experienced self-described "airplane problems" that resulted in the overnight delivery of the Claim being delayed until July 1, 2009 at 9:10 a.m. Clearly, this

was beyond the control of the Landlord and GECCMC, and therefore GECCMC should not be penalized for FedEx's failure to deliver the Claim to the claims agent as promised.

Moreover, Landlord's counsel has advised that, as a result of the FedEx issue, Debtors' counsel granted Landlord (and all OLP landlords) a 1-day extension of the Bar Date (until July 1, 2009). Accordingly, notwithstanding the FedEx-related delay, the Claim was timely.

Accordingly, because Landlord was granted an extension of time to file the Claim by Debtors' counsel and because the delay in receipt of the Claim by the claims agent was caused by FedEx and was not prejudicial to the Debtors, the Objections should be overruled and the Claim should be allowed as an administrative claim in the amount of \$7,447.10.

Dated: April 6, 2011.

SUTHERLAND ASBILL & BRENNAN LLP

By: /s/ Mark Sherrill

Mark D. Sherrill (Va. Bar No. 44543)

1275 Pennsylvania Avenue, NW

Washington, DC 20004

Tel: (202) 383-0100

Fax: (202) 637-3593

-and-

**BILZIN SUMBERG BAENA PRICE &
AXELROD LLP**

Jeffrey I. Snyder (*pro hac vice* pending)

1450 Brickell Avenue.

Suite 2300

Miami, Florida 33131

Tel: (305) 374-7580

Fax: (305) 374-7593

Counsel for LNR Partners, Inc., as Manager of
GECCMC 2005-C2 CC PARENT, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via
FedEx overnight on April 6, 2011, upon all parties as set forth on the attached service list.

By: /s/ Mark Sherrill
Mark D. Sherrill

SERVICE LIST

Clerk of the Bankruptcy Court
United States Bankruptcy Court
701 East Broad Street – Room 4000
Richmond, Virginia 23219

Jeffrey N. Pomerantz, Esq.
PACHULSKI STANG ZIEHL & JONES LLP
10100 Santa Monica Boulevard
Los Angeles, California 90067-4100
Counsel for the Liquidating Trust

Andrew W. Caine, Esq.
PACHULSKI STANG ZIEHL & JONES LLP
10100 Santa Monica Boulevard
Los Angeles, California 90067-4100
Counsel for the Liquidating Trust

Lynn L. Tavenner, Esq.
TAVENNER & BERAN, PLC
20 North Eighth Street, 2nd Floor
Richmond, Virginia 23219
Counsel for the Liquidating Trust

Paula S. Beran, Esq.
TAVENNER & BERAN, PLC
20 North Eighth Street, 2nd Floor
Richmond, Virginia 23219
Counsel for the Liquidating Trust

Hunter Brandon Jones
Shannon, Gracey, Ratliff & Miller, LLP
777 Main Street, Suite 3800
Fort Worth, TX 76102
Attorneys for Debtor